

b.) Remarks

Claims 2 and 12 have been amended in order to recite the invention with the specificity required by statute, and claims 29 and 42 have been cancelled in order to reduce the issues. The subject matter of the amendment is found in the specification as filed at page 8, line 15. Accordingly, no new matter has been added.

Claims 2, 5, 6, 8-12, 29, 42, 46 and 47 are rejected under 35 U.S.C §112, first paragraph, lack of written description and enablement. In support of this rejection, the Examiner points out there is no enablement for DNA having “at least 80% homology” to SEQ ID NO:2 or DNA that hybridizes to SEQ ID NO:2 “under stringent condition”. This rejection is addressed by foregoing amendment in conformity with Examples 9 and 14 of the PTO REVISED INTERIM WRITTEN DESCRIPTION GUIDELINES TRAINING MATERIALS.

Claims 1-12, 29, 42 and 46-48 are rejected under 35 U.S.C §101 and §112, first paragraph. This is the sole remaining issue, all rejections over prior art having been withdrawn.

In support of this rejection, the Examiner questions whether nucleoside transporter activity provides patentable utility (page 5, lines 8-24). Accordingly, the Examiner contends one skilled in the art would not know how to use the claimed invention. This rejection, too, is respectively traversed.

As discussed by Applicants, the polypeptide of SEQ ID NO:1 is a member of the nucleoside transporter family. In this regard, by way of background, dipyrindamole is known to inhibit the uptake of adenosine. Crimi et al. (*Allergy*, Vol. 43, (1988) 179-83, copy attached) demonstrate that inhalation of dipyrindamole enhances bronchospasm in

asthmatic patient. To the contrary, bronchospasm is suppressed by accelerating uptake of adenosine, e.g., bronchospasm in the patient would be treated. To this end, the polypeptide of SEQ ID NO:1 has the activity of promoting adenosine uptake, therefore when a DNA encoding SEQ ID NO:1 is expressed in the lung of asthmatic patients, bronchospasm in the patient is treated.

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 1-12 and 46-48 remain presented for continued prosecution.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Lawrence S. Perry/
Lawrence S. Perry
Attorney for Applicants
Registration No. 31,865

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

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